

Notice of Allowability

Application No.

09/560,447

Examiner

Anita Choudhary

Applicant(s)

DELUCA, STEVE A.

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/16/2004.
2. ☒ The allowed claim(s) is/are 3, 5-8, 10-13, 15, 17, 18, 20 and 22-24.
3. ☒ The drawings filed on 28 April 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

CLINTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Scott Balderston on June 28, 2004.

The application has been amended as follows:

In Claim 1, line 4 replace the words “—at least—” with “—a plurality of—”. In line 4 after the word “—data—” insert “—measurements--”. In line 6 replace the words “—at least the—” with “--each of the plurality of—”. In line 6 after the word “—data—” insert “—measurements--”. In line 7 replace the words “-- at a first-- ” with “—over a first specified—”. In line 8, delete the words “—at least—”. In line 8 after the word “—the—” please insert “--plurality of—”. In line 8 after the word “—data—” insert “—measurements--”. In line 10 after the word “—first—” please insert “—specified—”. In line 12, delete the words “—at least—”. In line 12 after the word “—cached—” insert “--plurality of—”. In line 13 after the word “—data—” insert “—measurements--”. In line 14 delete the words “—at least—”. In line 14 after the word “—the—” please insert “--plurality of—”. In line 15 after the word “—data—” insert “—measurements--”. In line 16 delete the word “—also—”. In line 18 delete the words “—at least—”. In line 19 after the first appearance word “—data—” insert “—measurements--”.

In claim 3 line 3 after the first appearance of the word “—data—” insert “—measurements--”.

In claim 5 line 2 after the word “—first—” insert “—specified--”.

In claim 6 line 2 replace the word “—is—” with “--measurements are--”.

In claim 7 line 2 replace the word “—is—” with “--measurements are--”.

In claim 8, line 3 replace the words “—at least—” with “—a plurality of—”. In line 3 after the word “—data—” insert “—measurements--”. In line 5 replace the words “—at least the—” with “--each of the plurality of—”. In line 5 after the word “—data—” insert “—measurements--”. In line 6 replace the words “-- at a first-- ” with “—over a first specified—”. In line 7, delete the words “—at least—”. In line 7 after the word “—the—” please insert “--plurality of—”. In line 7 after the word “—data—” insert “—measurements--”. In line 9 after the word “—first—” please insert “—specified—”. In line 11, delete the words “—at least—”. In line 11 after the word “—cached—” insert “--plurality of—”. In line 12 after the word “—

data—” insert “—measurements--”. In line 13 delete the words “—at least—”. In line 13 after the word “—the—” please insert “--plurality of—”. In line 14 after the word “—data—” insert “—measurements--”. In line 15 delete the word “—also—”. In line 17 delete the words “—at least—”. In line 18 after the first appearance word “—data—” insert “—measurements--”.

In claim 10, line 4 replace the words “—at least—” with “—a plurality of—”. In line 4 after the word “—data—” insert “—measurements--”. In line 5 and 6 replace the words “—at least the—” with “--each of the plurality of—”. In line 6 after the word “—data—” insert “—measurements--”. In line 6 replace the words “-- at a first-- ” with “—over a first specified—”. In line 8, delete the words “—at least—”. In line 8 after the word “—the—” please insert “--plurality of—”. In line 9 after the word “—data—” insert “—measurements--”. In line 11 after the word “—first—” please insert “—specified—”. In line 12, delete the words “—at least—”. In line 12 after the word “—cached—” insert “--plurality of—”. In line 13 after the word “—data—” insert “—measurements--”. In line 15 delete the words “—at least—”. In line 15 after the word “—the—” please insert “--plurality of—”. In line 16 after the word “—data—” insert “—measurements--”. In line 16 delete the word “—also—”. In line 18 delete the words “—at least—”. In line 19 after the word “—data—” insert “—measurements--”.

In claim 12 line 3 after the word “—data—” insert “—measurements--”.

In claim 15, line 3 replace the words “—at least—” with “—a plurality of—”. In line 4 after the first appearance of the word “—data—” insert “—measurements--”. In line 4 replace

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the words “—at least the—” with “--each of the plurality of—”. In line 5 after the word “—data—” insert “—measurements--”. In line 5 replace the words “-- at a first-- ” with “—over a first specified—”. In line 6, delete the words “—at least—”. In line 6 after the word “—the—” please insert “--plurality of—”. In line 7 after the word “—data—” insert “—measurements--”. In line 8 after the word “—first—” please insert “—specified—”. In line 9, delete the words “—at least—”. In line 9 after the word “—stored—” insert “--plurality of—”. In line 10 after the word “—data—” insert “—measurements--”. In line 11 delete the words “—at least—”. In line 12 after the word “—data—” insert “—measurements—”.

In claim 17 line 3 after the first appearance of the word “—data—” insert “—measurements—”.

CANCEL claim 19.

In claim 23 line 2 replace the word “—is—” with “--measurements are--”.

In claim 24 line 2 replace the word “—is—” with “--measurements are--”.

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

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As amended above, the prior arts of record do not teach a capacity planning system, wherein performance monitoring data measurements are taken and cached on separate client machines over specified intervals and then averaged over a greater time interval in order to be transmitted to a central collection location for capacity planning.

The Examiner considers applicants' claims 1, 3, 5-8, 10-13, 15, 17, 18, 20, and 22-24 allowable based on Examiner's Amendments made above and claim interpretation in light of the aforesaid prior arts of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita Choudhary whose telephone number is (703) 305-5268. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AC
June 28, 2004



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